



# DEPARTMENT OF THE ARMY

ST. PAUL DISTRICT, CORPS OF ENGINEERS  
ARMY CORPS OF ENGINEERS CENTRE  
190 FIFTH STREET EAST  
ST. PAUL, MN 55101-1638

REPLY TO  
ATTENTION OF

October 23, 2001

Construction-Operations  
Regulatory (02-00383-TJF)

Mr. Charles Plowe  
Plowe Engineering, Inc.  
9180 Lexington Avenue NE  
Circle Pines, Minnesota 55014

Dear Mr. Plowe:

We have reviewed information about a project of W.F. Bauer Homes to discharge fill material into a wetland basin during the construction of a 4-unit townhome development in Spring Lake Park. The project, referred to as Pleasant View Drive Estates, is in the SW 1/4 Sec. 6, T. 30N., R. 23W., Ramsey County, Minnesota.

We have determined that the two wetland basins located on the site (one of which would be filled) are not "waters of the United States" because they are: (1) not "navigable waters" as defined by Federal law, (2) not interstate waters, (3) not part of a tributary system to (1) or (2), (4) not wetlands adjacent to any of the foregoing, and (5) not impoundments of any of the above. In addition, the interstate commerce nexus to these particular waterbodies is insufficient to establish Clean Water Act jurisdiction. These waterbodies are therefore not subject to regulation by the Corps of Engineers under Section 404 of the Clean Water Act. Please note that a water that is not navigable under Federal law may still be "navigable" as defined by state law (and may therefore be subject to regulation by the state).

This jurisdictional determination takes into consideration the U.S. Supreme Court's decision in Solid Waste Agency of Northern Cook County v. Corps of Engineers (the SWANCC decision). The two areas encompassed by this jurisdictional determination total approximately 0.19 acre in size.

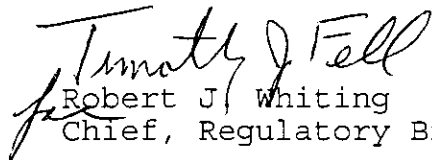
This jurisdictional determination is valid only for the project and waterbody referenced above. It is based on the Headquarters guidance available to us at this time.

PLEASE NOTE THAT THIS LETTER DOES NOT ELIMINATE THE NEED FOR OTHER FEDERAL, STATE, LOCAL OR OTHER AUTHORIZATIONS (SUCH AS THOSE OF THE DEPARTMENT OF NATURAL RESOURCES OR COUNTY).



If you have any questions, contact Timothy J. Fell in our St. Paul office at (651) 290-5360. In any correspondence or inquiries, please refer to the Regulatory number shown above.

Sincerely,

  
Robert J. Whiting  
Chief, Regulatory Branch

Copy furnished to: RCWD